

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

714 P STREET, SACRAMENTO 95814

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REFER TO:

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N O T I C E

Attached is Precedent Benefit Decision No. P-B-428-A. After an unfavorable decision of the Court, and pursuant to the provisions of section 409.1 of the Unemployment Insurance Code, the Board has invalidated and set aside P-B-428. That decision is no longer of any force or effect.

It is appropriate that this new precedent benefit decision (P-B-428-A) be filed in a manner that will clearly indicate that P-B-428 has been invalidated, and an annotation to that effect should be entered on P-B-428 itself.

Lionel L. Riave, Chief Counsel

BEFORE THE  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

GERALD G. DALTON  
(Claimant)

PRECEDENT  
BENEFIT DECISION  
NO. P-B-428-A  
Case No. 82-1217-A  
(VN-26391)

S.S.A. No.

ALBERTSON'S FOOD CENTER  
(Employer)

Employer Account No.

On September 14, 1982 pursuant to the provisions of section 409 of the Unemployment Insurance Code this Board promulgated and issued Precedent Benefit Decision No. P-B-428 (Case No. 82-1217) in which the Board affirmed the decision of the Administrative Law Judge in Case No. VN-26391. This Board held that the claimant was not disqualified for unemployment insurance benefits under section 1256 of the Unemployment Insurance Code and that the employer's reserve account was not relieved of benefit charges under section 1032 of the code.

Thereafter the employer filed a mandamus proceeding in the Superior Court of the State of California in and for the County of Los Angeles, Case No. C-445 815, requesting the court to require that the Board vacate and set aside its decision holding the claimant not disqualified under section 1256 of the code and the employer's reserve account not relieved of charges under section 1032 of the code and to thereafter issue a new decision to the contrary.

After a hearing on June 6, 1983, the Honorable Leon Savitch, Judge of the Superior Court, granted the petition for writ of mandate, ordered this Board to set aside its decision in P-B-428 (Case

903-08231

DATE MAILED: **AUG 18 1983**

No. 82-1217) and remanded the case for further hearing. The court's action in this regard was predicated on a finding that there was insufficient evidence to support the decision of the Board.

Accordingly, pursuant to the decision of the court, and in conformance with the provisions of section 409.1 of the Unemployment Insurance Code we declare invalid for all purposes our decision in P-B-428 (Case No. 82-1217). Additionally, we now hold, as ordered, that the decision of the Administrative Law Judge in VN-26391 is set aside. The employer's reserve account is relieved of benefit charges under section 1032 of the code. The case is remanded to an Administrative Law Judge for further hearing in accordance with the judgment of the court.

The transcripts, exhibits and other documents previously produced in the course of these proceedings shall remain a part of the record.

DON BLEWETT

MARILYN H. GRACE

HERBERT RHODES

LORETTA A. WALKER

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OSBORNE A. PEARSON